

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

TIMOTHY A. BARONE,

Plaintiff,

v.

HARBOR FREIGHT TOOLS USA, INC.,
SUMECHT NA INC. f/k/a SUMEC NORTH
AMERICA, INC., and
SUMEC HARDWARE & TOOLS CO., LTD.,

Defendants.

Case No.: 1:21-cv-727

**PROPOSED CASE MANAGEMENT
ORDER**

Pursuant to the Order of the Hon. John L. Sinatra referring this case to the undersigned for pretrial procedures and the entry of a scheduling order as provided in Fed. R. Civ. P. Rule 16(b) and Local Rules 16, and a conference with counsel having been held on _____, it is ORDERED that:

- 1) In accordance with Section 2.1A of the Plan for Alternative Dispute Resolution, this case has been referred to mediation.
- 2) Motions to opt out of ADR shall be filed no later than **September 8, 2023**.
- 3) The parties shall confer and select a Mediator, confirm the Mediator's availability, ensure that the Mediator does not have a conflict with any of the parties in the case, identify a date and time for the initial mediation session, and file a stipulation confirming their selection on the form provided by the Court no later than **September 12, 2023**. If the parties do not file a stipulation

confirming their selection of a mediator by this deadline, the Court will select a mediator in accordance with §5.4(C)(2) of the ADR Plan.

4) All motions to join other parties and to amend the pleadings shall be filed no later than **October 27, 2024**.

5) The initial mediation session shall be held no later than **November 30, 2023**.

6) All fact discovery shall be completed by no later than **April 12, 2024**. If discovery disputes arise, the parties shall briefly outline the dispute by letter (e-mailed to chambers and opposing). Upon review of the letter, I will either schedule a conference with the parties to attempt to resolve the issue informally, or, if the dispute is not resolved informally, the parties will be given the opportunity to file a formal motion. This informal discovery dispute is not expedited motion practice. Therefore, informal submissions should provide a brief overview of the issue with the supporting documentation and the parties' positions. Parties do not waive arguments by failing to raise them in their informal submissions. However, utilizing this informal discovery process does not act to automatically toll proceedings, including Case Management Order deadlines, discovery deadlines, or scheduled depositions or inspections. For any disputes that require prompt attention, the parties should proceed by motion.

7) The Parties shall identify any expert witnesses and produce their reports pursuant to Fed. R. Civ. P. 26(a)(2) as follows:

(a) plaintiff shall identify any expert witnesses and produce their report no later than **June 14, 2024**;

(b) defendant shall identify any expert witnesses and produce their reports no later than **July 12, 2024**;

(c) any party intending to offer rebuttal report(s) provide the rebuttal report(s) no later than **August 12, 2024**.

8) All expert depositions shall be completed by no later than **September 30, 2024**.

9) Pretrial dispositive motions shall be filed no later than **October 30, 2024**. Such motions shall be made returnable before Judge Sinatra unless the referral order grants the Magistrate Judge authority to hear and report upon dispositive motions.

10) If no pretrial dispositive motions are filed, the parties shall contact Judge Sinatra's chambers by **October 31, 2024** to schedule a trial date.

No extension of the above deadlines will be granted except upon a motion, filed prior to the deadline, showing good cause for the extension. Absent truly exceptional circumstances, any motion for an extension shall be made at least one week prior to the deadline sought to be extended. The parties are reminded that "a finding of 'good cause' depends on the diligence of the moving party". Parker v. Columbia Pictures Industries, 204 F.3d 326, 340 (2d Cir. 2000).

Dated: Buffalo, New York
August ____, 2023

SO ORDERED:

Jeremiah J. McCarthy
United States Magistrate Judge